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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/180,601	11/10/1998	TAKAHIRO OSHITA	1213/GEB667	6970

7590 08/14/2002  
WENDEROTH LIND & PONACK  
2033 K STREET NW SUITE 800  
WASHINGTON, DC 20006

EXAMINER

DOROSHENK, ALEXA A

ART UNIT	PAPER NUMBER
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1764

20

DATE MAILED: 08/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application N .

09/180,601

Applicant(s)

OSHITA ET AL.

Examiner

Alexa A. Doroshenk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 12-20 and 22-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-20 and 22-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 12-20 and 22-28 continue to be rejected under 35 U.S.C. 103(a) as being unpatentable over Ohshita et al. (5,156,099) in view of Hirayama et al. (5,620,488) as presented in paragraph 2 of Office Action, Paper No. 16.
3. New claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohshita et al. (5,156,099) in view of Hirayama et al. (5,620,488).

With respect to claim 29, Ohshita et al. disclose an apparatus for treating combustibles comprising:

a gasifying region for gasifying combustibles (3) for generating combustible gas and non-combusted particles (col. 7, lines 58-67);

a heat recovery region (4) (col. 6, lines 34-58);

a fluidized medium to circulate between the gasification and heat recovery regions (col. 6, lines 41-49); and

a heat recovery surface (5).

Though Ohshita et al. recognize that gases and particles are generated by the operation of the apparatus, Ohshita et al. does not disclose wherein a melt combustion furnace receives the gases and particles generated by the apparatus.

Hirayama et al. disclose a similar combustible treating process with a heat recovery region that generates gases and fine particles. Hirayama et al. teach wherein

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the gas and particles produced can be sent to a melt combustion furnace and thereby drive a gas turbine (col. 5, lines 53-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to send the gas and particles generated by the apparatus of Ohshita et al. into a melt combustion furnace, as taught by Hirayama et al., since it is a means by which the same products (gas and particles) can be used in an economic fashion, to drive a gas turbine.

With respect to claim 30, Hirayama et al. disclose wherein the melt combustion furnace is operable at 1300°C (col. 5, lines 53-55)

Ohshita et al. are silent as to the operating temperature of the fluidized bed furnace, but the very similar fluidized bed furnace of Hirayama et al. is disclosed as operating from 450°C to 650°C (col. 4, lines 2-6). It is held by the examiner that the apparatus of Ohshita et al. is capable of operating at the same temperatures as those of Hirayama et al. since both devices comprised a fluidized bed with similar combustion and heat recovery regions and structural elements.

### ***Response to Arguments***

4. Applicant's arguments filed May 20, 2002 have been fully considered but they are not persuasive.

Applicant argues that Ohshita does not disclose wherein the operation of the apparatus produces a "combustible gas", but rather an "exhaust gas", because the fuel "can be completely burnt".

The examiner respectfully disagrees with applicant. Since Ohshita discloses that that the fuel "can" be completely burnt does not preclude that the fuel not be completely

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burnt. In addition, Ohshita discloses in the background, wherein the gas exiting the fluidized bed furnace is a "combustible gas" (col. 3, lines 27-30). The rejection is maintained.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the gas turbine is operated by combustion rather than by expanding exhaust gas) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Additionally, Hirayama et al. disclose wherein the combustible gas and fine particles are burned (reads on combusted) in the melt combustion furnace (col. 5, lines 53-55).

Applicant argues that Hirayama does not disclose or suggest a heat recovery surface in the fluidized-bed furnace.

The examiner agrees with applicant, but also notes that Hirayama was not used to recite such a teaching. The examiner provided the Ohshita et al. reference as disclosing such a surface (5).

### **Conclusion**

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

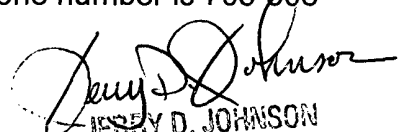
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
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexa A. Doroshenk whose telephone number is 703-305-0074. The examiner can normally be reached on Monday - Thursday from 8:30 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marian Knode can be reached on 703-308-4311. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
JERRY D. JOHNSON  
PRIMARY EXAMINER  
GROUP 1100

  
AAD  
August 10, 2002